

Is the Department of State Accountability Review Board Process Adequate?

A Monograph

by

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Abstract

Is the Department of State Accountability Review Board Process Adequate? by Kenneth W. Davis, Department of State, 40 pages.

Ancient custom places the inviolability of diplomats under divine protection. The Vienna Convention on Diplomatic relations protects diplomats through international law. However, both custom and law rely on the host nation to safeguard diplomats. The attack and seizure of the US embassy in Iran and the burning of the US embassy in Pakistan in November 1979 demonstrated that nations sometimes lack the will or capacity to protect foreign diplomatic missions. These and other events prompted Secretary of State George Schultz to initiate a bipartisan review of the Department of States security originations and methodology. The findings of the Secretary of State's Advisory Panel on Overseas Security led to congressional action. In 1986, Congress passed the Omnibus Diplomatic Security and Antiterrorism Act. Title II of that act created the Diplomatic Security Service (DSS) and Title III established the ARB process to review incidents in which personnel were severely injured or killed or US property was damaged. Since 1986, the ARB has been empaneled nineteen times. The majority of the reports are classified. However, the 1998 East Africa ARB and the 2012 Benghazi ARB were released to the public. The similarities between the findings and recommendations from these two ARBs prompted a congressional investigation. The resulting congressional committee hearings and reports noted the reoccurrence of analogous recommendations and questioned whether the ARB process was adequate. That is, in light of the global terrorist threat and recent attacks on US missions, there is reason to ask whether the ARB process is adequate and whether ARB reports have actually led to improved DOS security operations?

ARB reports, government reports, congressional documentation, and other source material were reviewed to determine whether the ARB process is adequate. The review was necessary to determine the type of threats that the DSS was organized to counter and whether the review process established by legislation is utilized as intended. Comparison between the watershed events in the late 1970's and early 1980's that prompted legislative action and contemporary incidents showed that the threats have evolved beyond the scope of the original legislation. Overall the evidence shows the DOS' approach to security has not evolved and the corporate culture within the Department has limited the development of security services. The research exposed similar patterns of tactical level concerns being overridden by senior officials, analogous recommendations that were disregarded at the discretion of DOS officials, and concerns regarding the independence of the ARB. To correct the deficiencies in the ARB process, Congress must amend the 1986 Omnibus Diplomatic Security and Antiterrorism Act.

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To the Department of State and the Bureau of Diplomatic Security, special thanks for allowing me a year of academic study. I look forward to returning to the job and seeing where the Foreign Service sends us next.

Last, for Tinman you deserved better.

Acronyms

ARB	Accountability Review Board
BDS	Bureau of Diplomatic Security
COM	Chief of Mission
DCM	Deputy Chief of Mission
DOS	Department of State
DS	Diplomatic Security
DSS	Diplomatic Security Service
FAM	Foreign Affairs Manual
FSO	Foreign Service Officer
GAO	Government Accountability Office
IMO	Information Management Officer
IPBP	Independent Panel on Best Practices
M	Under Secretariat for Management
M/PRI	Office of Management Policy, Rightsizing, and Innovation
ODSA	Omnibus Diplomatic Security and Antiterrorism Act of 1986
OSPB	Overseas Security Policy Board
PCC	Permanent Coordinating Committee
SECCA	Secure Embassy Construction and Counterterrorism Act of 1999
SY	Office of Security
VBIED	Vehicle Borne Improvised Explosive Device
VCDR	Vienna Convention on Diplomatic Relations

Introduction

The assaults have become bloodier and the casualty toll higher . . . In sum, what we have seen in recent years is an expansion of the threat from physical violence against diplomats – often private, incidental, even furtive – to the beginnings of calculated terror campaigns, psychological conflict waged by nation or sub-group against nation, with an ever-broadening range of targets, weapons and tactics.

—Inman Commission Report, 1985

Custom and international law assign to the host nation the responsibility for the protection of diplomatic personnel and facilities. However, the attack and seizure of the US embassy in Iran and the burning of the US embassy in Pakistan in November 1979 raised the question of whether the United States could rely on host nations to fulfill their responsibilities. Since then the United States has assumed a greater portion of that responsibility to protect diplomats and missions in areas where there are serious threats and in nations where the host nation authorities either lack the will or the capability to provide adequate protection. Congress, in 1986, in response to the need for greater security at US missions passed the Omnibus Diplomatic Security and Antiterrorism Act. Title II of that act created the Diplomatic Security Service (DSS) and Title III established a process for reviewing incidents in which diplomatic personnel were injured or killed or US property or facilities were destroyed. That review process is inherently linked to the DSS because the Accountability Review Board (ARB) defined in Title III can only be invoked when the case involves lapses in security. Since 1986, the ARB has been empaneled nineteen times.¹ The majority of the reports are classified and have garnered little attention outside of the Department of State (DOS). However, the attack on the US special mission compound in Benghazi, Libya was a major terrorist incident and resulted in widespread government and media attention. Not surprisingly, a significant portion of that ARB report on the incident was released to the public. The report also

¹ Alex Tiersky and Susan B. Epstein, *Securing U.S. Diplomatic Facilities and Personnel Abroad: Background and Policy Issues* (Washington, DC: Congressional Research Service, July 30, 2014), 13.

prompted a congressional investigation. The resulting congressional committee reports took exception with the findings of the ARB and questioned whether the ARB process was adequate. That is, in light of the global terrorist threat and recent attacks on US missions, there is reason to ask whether the ARB process is adequate and whether ARB reports have actually led to improved DOS security operations?

To determine whether the ARB process is adequate it was necessary to review the events that led to the creation of the DSS. The review was necessary to determine the type of threats that the DSS was organized to counter and whether the review process established by that law is utilized as intended. Next, that evaluation had to be compared with more recent incidents to determine whether contemporary threats differ from those anticipated by the Omnibus Diplomatic Security and Antiterrorism Act. Additionally, the DOS' response to ARB reports had to be assessed to determine whether, in response to incidents, the current security system has evolved to meet the new threats. Comparison between the watershed events in the late 1970's and early 1980's that prompted legislative action and contemporary incidents showed that the threats have evolved beyond the scope of the original legislation. Additionally, ARB recommended improvements have been largely ignored. Consequently, the DSS has not evolved to meet the new threats. Overall the evidence shows the DOS' approach to security has been inadequate and the culture within the Department has limited the evolution of security services. Furthermore, the changes to the security organization that have occurred have been driven by external sources over the reluctance of the DOS. The congressional investigations and hearings held to investigate the Benghazi incident and ARB report revealed similarities between the Benghazi incident and the 1998 East African incident, and ARB reports and the 1985 Inman Panel report that led to the 1986 statute. The research exposed similar patterns of tactical level concerns being overridden by senior officials, analogous recommendations that were disregarded at the discretion of DOS officials, and concerns regarding

the independence of the ARB.² Thus, improving the security of US missions cannot be ensured through the ARB process and legislative action is required.

Historical Evolution

Attacks on diplomatic personnel and embassies is not unique to recent history. The protection of heralds, messengers, or diplomats has its foundation in the belief of divine protection and has evolved into a tenet of international law. The ancient Greeks and Persians believed that envoys were protected by divine right and that reparations for harming a herald were required to restore divine favor. The ancient Greek historian, Herodotus, tells of the attack and murder of the Persian King Darius' envoys by the Athenians and Spartans in 491 B.C. The attack on the Persian envoys violated a sacred custom and was viewed by Persians as an unforgivable aggression. The Spartans also determined that they had offended the gods and were no longer able to obtain favorable omens from their sacrifices. To make amends, Seperthias and Bulis presented themselves before the new Persian King Xerxes to serve as compensation for the murdered envoys. In response Xerxes replied, "What you did, after all, when you murdered the heralds, was to contravene a universal human law. I will not repeat the very deed for which I am condemning you – nor will I absolve the Lacedaemonians of their guilt by killing you in exchange."³ Reliance on divine protection had limitations and the necessity of reciprocal agreements, or at least understandings, between rulers for the security of diplomats was the next evolutionary step.

Rulers understood that the divine protections awarded to early diplomats were based on their duties as peacemakers and intermediaries. Furthermore, they understood dialogue was necessary to maintain peaceful relations, end conflict, and ensure the movement of goods and

² Foreign Affairs Committee, Majority Staff Report, Benghazi: Where is the State Department Accountability?, February 7, 2014, accessed August 18, 2016, <https://foreignaffairs.house.gov/files/HFAC%20Majority%20Staff%20Report%20on%20Benghazi.pdf>.

³ Herodotus, *The Histories*, bk. 7, st.133-6.

services between lands. The Merovingian King, Clodovaeus, stated, “By the united force of divine and human laws, which obtain, that those who are commissioned mediators and composers of hostilities, shall themselves be free from hurt or molestation. For in war and arms it is an embassy alone that can solicit peace; and the person employed in that friendly service is no longer an enemy.”⁴ This recognition from an early monarch on the importance of diplomatic intercourse and the duty of a host to protect diplomatic personnel provides a glimpse into the early formation of a codified legal protection for diplomats. Centuries later, the Dutch jurist, Hugo Grotius, concluded that the protection of ambassadors was “sanctioned by every clause and precept of human and revealed law.”⁵ In Europe this concept became widely accepted and there is no evidence of a hosting government breaching the inviolability of a diplomat from the 16th century to modern times.⁶ However, there have been nongovernment sanctioned incidents that have led to the development of national laws protecting diplomats. One notable incident, involving the violent arrest of a Russian Diplomat in London, caused great embarrassment to the Queen and resulted in a legal statute known as the Diplomatic Privileges Act of 1708. This law provided protection for ambassadors and their servants and remained in force until it was replaced by the Diplomatic Privileges Act of 1964. The Diplomatic Privileges Act of 1964 was enacted to ensure compliance with the newly established Vienna Convention on Diplomatic Relations or the final step in the evolution of international law.⁷

Following World War II and the establishment of the United Nations, the first session of the International Law Commission selected the topic of Diplomatic Intercourse and Immunities as

⁴ Hugo Grotius, *The Rights of War and Peace*, bk. II, chapter XVIII.

⁵ Ibid.

⁶ Joanne Foakes and Eileen Denza, “Privileges and Immunities of Diplomatic Agents,” *Satow’s Diplomatic Practice*, 6th ed., ed. Sir Ivor Roberts (New York, Oxford University Press, 2009), 247.

⁷ J. Craig Baker, *The Protection of Diplomatic Personnel* (Hampshire, England: Ashgate Publishing Limited, 2006), 45.

one of the topics of international law to be codified.⁸ Twelve years later the Vienna Convention on Diplomatic Relations (VCDR) of 1961 was established. It was, however, not fully ratified until 1964. The Convention provided a universally excepted basis for the legal protection of diplomats. Article 22, paragraph 2 of the VCDR states, “The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.”⁹ Furthermore, in Article 29, the VCDR states, “The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.”¹⁰ The VCDR is substantive international law dealing with the protection of diplomatic personnel, it established inviolability of diplomats, and the responsibility of the host nation to provide appropriate measures to secure the facilities and personnel of the mission. However, reciprocal treaty agreements and international law have not been able to guarantee the security of diplomatic personnel and facilities. Instances where host nations have been unable or unwilling to provide adequate security have resulted in the destruction of US facilities and the deaths of US diplomats. To mitigate these dangers, the US government enacted legislation to develop a security organization within the DOS.

Omnibus Diplomatic Security and Antiterrorism Act of 1986

Beginning in 1979, the frequency and intensity of attacks directed against US diplomatic personnel increased and pointed to a shift in the threat from isolated incidents to the specific targeting of US diplomatic entities. These attacks were conducted either with some level of support

⁸ United Nations General Assembly, *Diplomatic Intercourse and Immunities*, Official Records, 7th Sess., by A.E.F. Sandstrom, April 21, 1955, 8, accessed March 23, 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/NL5/500/01/PDF/NL550001.pdf?OpenElement>.

⁹ United Nations, Vienna Convention on Diplomatic Relations 1961, 3.

¹⁰ Ibid, 9.

from host governmental entities or through the malfeasance of host government officials. These attacks were a violation of the VCDR. The US government launched an investigation into the incidents and sought ways to mitigate future attacks.

Nineteen seventy-nine was a pivotal year for the protection of American diplomats. Host nations had failed to fulfill their international obligations. On February 14, the US Embassy in Tehran, Iran was overrun and the US Ambassador and his staff were seized and held hostage for almost two hours. On the same day, the US Ambassador to Afghanistan, Adolph Dubs, was kidnapped and later murdered. On November 21, the US Embassy in Islamabad, Pakistan was overrun and two Americans were killed during the attack.¹¹ However, the most politically significant attack occurred on November 4, when a large group of students and militants again stormed the US Embassy in Tehran, Iran. Prior to the protests, Iranian government security personnel withdrew from the area and did not attempt to protect the facilities or the personnel assigned to the embassy. Once the belligerents had overrun the embassy, they took all remaining staff hostage. Ultimately, fifty-five US personnel were held hostage for 444 days. Iran was a VCDR guarantor and these actions were in violation of VCDR, Articles 22.2 and 29. The International Court of Justice reviewed the seizure and detention of US diplomats and embassy staff members by militants. In the case of *United States Diplomatic and Consular Staff in Tehran*, or *United States of America v. Iran*, the court found for the plaintiff, the United States. The Court's opinion noted, "(1) that Iran has violated and is still violating obligations owed by it to the United States; (2) that these violations engage Iran's responsibility; (3) that the Government of Iran must immediately release the United States nationals held as hostages..."¹² However, Iranian officials continued to disregard international law and the legal ruling. The hostages remained in Iranian custody until January 1981.

¹¹ Bureau of Diplomatic Security, *Lethal Terrorist Actions Against Americans 1973-1985* (Washington DC, 1986), 79-3.

¹² International Court of Justice, *United States Diplomatic and Consular Staff in Tehran* (United States of America v. Iran), Judgement of 24 May 1980, 45-46.

The Tehran case had showed that the will of the host nation to enforce international law can be subverted by internal interests and leave diplomats vulnerable.

During the early 1980's the trend of attacks against US diplomatic facilities continued. On April 18, 1983, the terrorist group Islamic Jihad carried out an attack against the US Embassy in Beirut, Lebanon. The bomb partially destroyed the U.S. Embassy and killed eighty-six people and wounded more than one-hundred.¹³ On October 23, 1983, a similar attack was carried out at the U.S. Marine Barracks in Beirut, Lebanon. That attack killed 241 Marines, while a simultaneous attack killed fifty-eight French paratroopers.¹⁴ December 12, 1983, the US and French Embassies in Kuwait were attacked as part of simultaneous attacks throughout the city. Two men crashed a dump truck laden with explosives through the gate of the US Embassy. The vehicle exploded adjacent to the consulate building. The consulate was destroyed and the chancery heavily damaged.¹⁵ These attacks highlight that host nations sometimes lack the ability to enforce the VCDR Articles 22.2 and 29.

International law and custom hold the host government responsible for the protection of diplomatic missions.¹⁶ When the host nation lacks the will or the ability to protect diplomatic personnel it is incumbent on the sponsoring nation to gage the importance of the mission to national foreign and security policies. Nations have the option to suspend operations until such time as it is safe to resume a diplomatic presence or they may choose to enhance security to levels that mitigate foreseen threats. Following several high-profile security incidents, such as the Tehran hostage

¹³ Bureau of Diplomatic Security, *Lethal Terrorist Actions Against Americans 1973-1985* (Washington, DC, 1986) 83-3.

¹⁴ Bruce Hoffman, *Inside Terrorism* (New York: Columbia University Press, 2006), 261.

¹⁵ *Ibid*, 12.

¹⁶ US Department of State, *Report of the Secretary of State's Advisory Panel on Overseas Security*, 1985, Guard Forces, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part10.htm>.

crisis, Beirut bombings, and attacks in Kuwait, Secretary of State George Schultz established the Advisory Panel on Overseas Security, hereafter referred to as the Inman Panel.¹⁷

The December 1983 Kuwait bombing marked the third significant attack on a US facility in eight months. The DOS viewed this as an escalation of extremist violence against US facilities. Furthermore, the Congress and the American people were troubled at the apparent inability of the US government to protect Americans overseas.¹⁸ In response, the Secretary of State sought initiatives to restructure the Department's organization regarding security. One initiative was the Inman Panel. Conceived in early March 1984, by the Assistant Secretary for Administration, Robert E. Lamb,¹⁹ the panel would examine the existing security structures and make recommendations for necessary changes. In a memorandum to Secretary Shultz, Under Secretary for Management Ronald Spiers proposed convening a group of esteemed DOS, congressional, and business leaders to undertake "a new, comprehensive examination of security strategy."²⁰ Secretary Shultz agreed, and recommended that the panel be given a limited but reasonable time to complete their examination. In July 1984, retired Admiral B. R. (Bobby) Inman agreed to serve as the panel's chair, and in August, Victor Dikeos, former head of the DOS's Office of Security or SY, agreed to serve as the panel's Executive Secretary. In addition to Inman and Dikeos, Senator Warren Rudman (R-NH) and Congressman Daniel Mica (D-FL) represented Congress. Former Under Secretary of State for Political Affairs Lawrence Eagleburger represented the Department of State; Lieutenant General D'Wayne Gray, Chief of Staff of the U.S. Marine Corps, represented the Department of Defense; and Anne Armstrong, chair of the President's Foreign Intelligence Advisory Board,

¹⁷ John Price, "Beirut to Benghazi: We Didn't Learn a Lesson," *International Policy Digest* (January 23, 2014): 2.

¹⁸ State Magazine Staff, "Victor Dikeos Interview," *State Magazine*, November 1991, 49.

¹⁹ Ibid.

²⁰ US Department of State, Bureau of Diplomatic Security, *History of the Bureau of Diplomatic Security of the United States* (Washington, DC: Global Printing Solutions, 2011), 274.

represented the intelligence community. Robert McGuire, Chairman of the Board for Pinkerton's, served the panel as member of the private sector.²¹ The Inman Panel conducted a full review of security organization and culture within the DOS, their findings set the foundation for current security operations and standards.

In June 1985, the Inman Panel submitted its report (hereafter referred to as the Inman Report) to Secretary Shultz. In it, the panel advised fundamental changes to the existing security apparatus and urged the reorganization of security related institutions within the DOS. The panel stressed that security was not a fundamental part of DOS culture but that it had become a necessity of the times. The panel noted, "Security has not traditionally been given a high priority by diplomatic establishments. The large, important, and growing security demand at home and abroad requires a competent professional organization with a sense of mission and identity legislatively defined."²² Furthermore, the panel recognized that incidents would continue to occur and that it was essential to establish a mechanism to investigate attacks in order to establish responsibility and to mitigate future attacks. To ensure the organization could adapt and improve from such incidents the Panel recommended, "That the Secretary ask for legislation that would establish a board of inquiry or, alternatively, using existing authorities, put in place such a board to undertake investigations into major security incidents in the future."²³ The panel felt strongly about the recommendation and even provided the Secretary of State with a draft legislative proposal for the board of inquiry.²⁴ These two recommendations were incorporated into the draft legislation and became public law in the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (ODSA).

²¹ US Department of State, Bureau of Diplomatic Security, *History of the Bureau of Diplomatic Security of the United States* (Washington, DC: Global Printing Solutions, 2011), 274-275.

²² US Department of State, *Report of the Secretary of State's Advisory Panel on Overseas Security*, 1985, Introduction, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part01.htm>.

²³ Ibid.

²⁴ Ibid.

The Inman Report gained the immediate support of the Secretary of State and the proposed legislation was provided to Congress. With congressional support, Secretary Shultz appointed Assistant Secretary Lamb to implement the panel's recommendations and tasked him to complete the reorganization of the Department's security programs by January 1, 1986. On August 12, 1986, with overwhelming support, Congress passed the ODSA, President Reagan signed the act into law on August 27.²⁵ President Reagan stated, "I am committed to ensuring the safety of our diplomats, servicemen, and citizens wherever they may be. This historic act provides the organization and authorities necessary to implement the recommendations of the Advisory Panel on Overseas Security."²⁶ This legislation is an indication that the attacks on US diplomatic facilities had brought this issue to the national stage and that the protection of diplomatic personnel had become, for the time being, a national priority.

Although the ODSA is divided into thirteen sections or titles. Titles I through IV are cited as the "Diplomatic Security Act" or 22 USC 4801; Title I Diplomatic Security, Title II Diplomatic Security Service, Title III Performance and Accountability, Title IV Diplomatic Security Program. Title V through Title X, cover programs to combat international terrorism, international nuclear terrorism, multilateral cooperation to combat terrorism, compensation for victims of terrorism, maritime security, and the Fascell Fellowship Program. Title X through XIII deal with security at overseas military facilities, prosecution of international terrorists, and miscellaneous attachments to the legislation. Titles I through VI are the most germane to this project as they focus on the security organization and its position within the DOS.

²⁵ US Department of State, Bureau of Diplomatic Security, *History of the Bureau of Diplomatic Security of the United States* (Washington, DC: Global Publishing Solutions, 2011), 286.

²⁶ Ronald Reagan, "Statement on Signing the Omnibus Diplomatic Security and Antiterrorism Act of 1986," August 27, 1986, accessed September 20, 2016, <https://www.reaganlibrary.archives.gov/archives/speeches/1986/082786a.htm>.

Title I of the Diplomatic Security Act outlined the findings and purpose of the bill. It recognized that diplomacy was crucial to the United States Government and that the government had a responsibility to protect US diplomats abroad. Furthermore, it established that existing resources were inadequate to mitigate security concerns and that the dangers facing diplomats would persist for the foreseeable future. Titles II and III were enablers to allow the Secretary to carry out security responsibilities outlined in Title I. Title II established the responsibilities of the Bureau of Diplomatic Security as the security and law enforcement entity within the DOS.²⁷ Title III established the Accountability Review Boards (ARB). Accountability reviews are to be conducted “in case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad which is covered by the provisions of Titles I through IV.”²⁸ Titles II and III dealt with personnel, organization, and accountability within the new security apparatus. Title IV was a funding mechanism utilized to establish consistent physical security standards for new facilities and to ensure uniform standards against common threats encountered by diplomatic facilities.

Title IV, Diplomatic Security Program, established funding levels to implement the changes mandated in the ODSA, provided for the Rewards for Justice program, and funded capital construction through 1990. The caveat on the construction funding was that it be used to support diplomatic security construction, acquisition, and operations pursuant to the supplemental diplomatic security program.²⁹ These security construction standards were based on the Inman Report and became known as Inman Standards.³⁰ The standards were minimum guidelines to

²⁷ Omnibus Diplomatic Security and Antiterrorism Act of 1986, Public Law 99-399, 99th Cong. (August 27, 1986) § 104.

²⁸ Ibid, § 304.

²⁹ Omnibus Diplomatic Security and Antiterrorism Act of 1986, Public Law 99-399, 99th Cong. (August 27, 1986), § 401.

³⁰ US Department of State, *Report of the Secretary of State's Advisory Panel on Overseas Security*, 1985, Building Program, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part12.htm>.

mitigate the effects of large vehicle-borne improvised explosives device (VBIED) style attacks similar to the attacks in Beirut. The failure of DOS to implement these standards would become issues in the ensuing years.

Title II - Bureau of Diplomatic Security

The ODSA created the Bureau of Diplomatic Security around the already existing SY. This precursor to the Bureau of Diplomatic Security can be traced to 1916. Secretary of State Robert Lansing created the Office of the Special Agent to monitor German agents in the US.³¹ Personnel from the Office of the Special Agent began monitoring the activities of German diplomats in Washington DC and New York City. These investigations revealed that Germany was planning to resume unrestricted submarine warfare. Joseph Nye, the Chief Special Agent, briefed Secretary Lansing on these developments prior to a previously scheduled meeting with the German Ambassador.³² From the nascent Office of the Special Agent's initial counter intelligence and law enforcement functions, the security elements within the DOS grew, adding numerous functional areas with little coordination. By 1980, SY had grown to 600 personnel with global responsibilities. However, SY was not the only entity with security responsibilities at the DOS. The fragmented security functions showed the vulnerabilities of the existing systems and there were calls for the consolidation of security elements within the DOS. In 1982, Under Secretary of State for Management Robert T. Kennedy rejected the idea of consolidating DOS security elements into a single entity. The Under Secretary opted to appoint Ambassador Robert Sayre, Director of the Counter Terrorism Bureau (M/CT), to coordinate the various security entities but "not interfere with [their] operations."³³ However, M/CT had a limited role in security operations and minimal

³¹ Robert Lansing, *War Memoires of Robert Lansing* (1935; repr., Westport: Greenwood Press, 1970), 84.

³² State Magazine Staff, "Robert Bannerman Interview," *State Magazine*, November 1991, 46.

³³ US Department of State, Bureau of Diplomatic Security, *History of the Bureau of Diplomatic Security of the United States* (Washington, DC: Global Publishing Solutions, 2011), 268.

staffing in comparison to SY.³⁴ The scope of the issues confronting security operations at the DOS were discussed in the Inman Report:

Overall organization for security activities has become complicated by the proliferation of special offices and separate budgets for specific programs. As the threat has grown, the budgets and the staffs also have grown, but never sufficiently to keep pace with the increasing clamor for material, services, and professional attention. The results have been overlapping and confusing responsibility and a series of bureaucratic battles.³⁵

The Inman Report sought to address the security organization's haphazard growth by creating a functionally based organization by consolidating security related functions into a single entity. The Panel noted, "The Department's security mission and the organizations to carry it out have evolved largely in reaction to perceived threats and related needs... but organizational units have been established, almost on a patchwork basis, to meet at least the major hazards and added responsibilities."³⁶ In response to the Inman Report, the ODSA established the Bureau of Diplomatic Security around the existing organization of SY. This moved SY out of the Bureau of Administration and created the new Bureau of Diplomatic Security. The new bureau was placed under the newly created Assistant Secretary for Diplomatic Security and he became the Department's senior security executive.³⁷ However, despite the language in the ODSA, the Assistant Secretary for Diplomatic Security did not report to the Secretary. As noted by Pat Kennedy, a former Undersecretary for Management, "the Under Secretary for Management, would be the Under Secretary that an ambassador would communicate with on something involving security."³⁸ Security was under the control of the Under Secretary for Management and the role of security personnel at embassies remained under the Administrative Consular. The ODSA had

³⁴ US Department of State, *Report of the Secretary of State's Advisory Panel on Overseas Security*, 1985, Organization and Personnel, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part04.htm>.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Department of State, Report of The Independent Panel on Best Practices, August 29, 2013, 3.

³⁸ US Department of State, Transcript Foley, Kennedy Brief on Bombings in East Africa, August 12, 1998, accessed December 15, 2016, https://fas.org/irp/news/1989/08/98081404_tpo.html.

created the Bureau of Diplomatic Security. However, the organization's relative position within the DOS marginalized its effectiveness in advising the Secretary of State.

The new Assistant Secretary for Diplomatic Security inherited the former Director of SY's responsibilities. Additionally, he gained new responsibilities. He was responsible for security and protective operations in the United States, counterterrorism planning and coordination, security technology, management of the Diplomatic Courier Service, training of US personnel, and antiterrorism training for foreign governments.³⁹ ODSA allowed the Secretary of State to assign law enforcement and security functions to the DSS. Furthermore, Title II of the ODSA provided the Secretary of State the authority to establish standards and to delegate authority to agents on behalf of the US government. The intent was for the DSS to "provide a disciplined, well-informed, confident and resourceful professional corps of officers to deal with the unique challenges of the next decade."⁴⁰ This quote was almost prophetic. The next major incident and driver of change for the DSS would occur thirteen years after the release of the Inman Report. The unpredictability of global security commitments required a well-trained organization led by dedicated professionals to enable diplomatic engagement and the intent of the ODSA was to empower the Secretary of State to create such an organization.

The creation of the new organization was not fully embraced by the Foreign Service. The corporate culture of the DOS is dominated by Foreign Service Officers and the increase in personnel and funding by the Foreign Service Specialist in the DSS was not well received⁴¹. Within one year, the US Congress raised concerns in, *Report Security at the United States Missions*

³⁹ Omnibus Diplomatic Security and Antiterrorism Act of 1986, Public Law 99-399, 99th Cong., (August 27, 1986), §105.

⁴⁰ US Department of State, *Report of the Secretary of State's Advisory Panel on Overseas Security*, 1985, Organization and Personnel, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part04.htm>.

⁴¹ "Typically, the dominate subculture within an organization is put forward by top management and for this reason is often referred to as the corporate culture." Mary Jo Hatch, *Organization Theory: Modern, Symbolic, and Post Modern Perspectives* 2nd ed. (Oxford: University Press, 2006), 176.

in Moscow, “the creation of the new Bureau of Diplomatic Security is a positive improvement of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, more needs to be done before Congress can be assured that security concerns are considered at the highest policy levels and that resources are efficiently and effectively spent in the future.”⁴² This report recognized that the issue was the placement of the Bureau of Diplomatic Security within the organizational structure of the DOS and how this reflected the importance of security within the organizational culture of the DOS, “security awareness is sometimes not considered part of the culture of the foreign service.”⁴³ The ODSA had created a professional security organization within the DOS however its placement within the DOS and the culture of the organization continued to limit the effectiveness of the Bureau of Diplomatic Security, as would be noted in subsequent ARBs.

Title III Accountability Review Boards

The Inman Panel realized that no system is perfect and that attacks would continue to occur. To account for future changes and human failures the panel recommended the establishment of a mechanism of accountability. This was envisioned as a way to have an impartial entity investigate attacks to identify nonfeasance and proffer recommendations to correct or mitigate identified systemic weaknesses.⁴⁴ Furthermore, the panel recommended this be codified within the Foreign Affairs Manual (FAM), “the Panel recommended that Foreign Service Regulations be promulgated to require the Secretary of State to convene a Board of Inquiry with powers of establishing accountability in all cases involving terrorism or security related attacks that result in significant damage and/or casualties to United States personnel or property.”⁴⁵ This language was

⁴² Select Committee on Intelligence United States Senate, *Report on Security at the United States Missions in Moscow*, 100th Cong., 1st sess., 1987, S Rep. 100-154, 10.

⁴³ *Ibid*, 13.

⁴⁴ US Department of State, *Report of the Secretary of State’s Advisory Panel on Overseas Security*, 1985, Accountability and Acceptance of Risk, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part05.htm>.

⁴⁵ US Department of State, *Report of the Secretary of State’s Advisory Panel on Overseas Security*,

strengthened in the subsequent legislation. Title III of the ODSA established the statutory authority for the impaneling of Accountability Review Boards:

In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government Mission abroad which is covered by the provisions of titles I through IV, the Secretary of State shall convene an Accountability Review Board. The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.⁴⁶

The ODSA established the statutory responsibility for the Secretary of State to empanel an ARB for security related incidents and 12 FAM 030 was written to provide guidance on recommending and implementing ARBs.

The decision to establish an ARB is covered in 12 FAM 032.1. The ARB Permanent Coordinating Committee (PCC) reviews all incidents and then makes a recommendation to the Secretary of State to convene or not convene an ARB.⁴⁷ Once established, the guidance from the FAM states the objective of the ARB as, “a mechanism to foster more effective security of U.S. missions and personnel abroad by ensuring a thorough and independent review of security-related incidents. Through its investigations and recommendations, the Board seeks to determine accountability and promote and encourage improved security programs and practices.”⁴⁸ The membership of an ARB is mandated in the ODSA, with four members being appointed by the Secretary of State and one member being appointed by the Director of Central Intelligence.⁴⁹ Qualifications for ARB members are laid out in 12 FAM 032.2, “members must possess expertise

1985, Accountability and Acceptance of Risk, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part05.htm>.

⁴⁶ Omnibus Diplomatic Security and Antiterrorism Act of 1986, Public Law 99-399, 99th Cong., (August 27, 1986), §301.

⁴⁷ Foreign Affairs Manual, 12 FAM 030: Accountability Review Boards, March 17, 2015, 032.1, accessed January 9, 2017, <https://fam.state.gov/12fam/12fam0030.html>.

⁴⁸ Foreign Affairs Manual, 12 FAM 030: Accountability Review Boards, March 17, 2015, 031.1, accessed January 9, 2017, <https://fam.state.gov/12fam/12fam0030.html>.

⁴⁹ Omnibus Diplomatic Security and Antiterrorism Act of 1986, Public Law 99-399, 99th Cong., (August 27, 1986), §302.

that will contribute to the work of the Board (e.g., knowledge, experience or training in areas such as foreign affairs, law, security, embassy construction, intelligence, and other areas appropriate to the Board's work)."⁵⁰ The 12 FAM outlines that the Office of Management Policy, Rightsizing, and Innovation (M/PRI) is responsible for chairing the PCC, providing staff for the ARB, and tracking the implementation of ARB recommendations. ARB reports are delivered to the Secretary of State and the Secretary's designees shall determine what steps are to be taken in respect to recommendations. The Secretary of State is required to report to Congress any recommendation meant to improve the security and efficiency. However, the requirement is only a notice. Congress does not oversee the implementation of the recommendations.⁵¹ The Under Secretary for Management and the Under Secretary for Political Affairs are responsible for the implementation of accepted ARB recommendations.⁵² The fact that the Under Secretary for Management oversees both M/PRI and the BDS creates, at a minimum, the appearance of inappropriate influence on the ARB process. ARBs are restricted by statute to reviewing security incidents and the Under Secretary for Management has control over the security organization while also controlling the entity with considerable influence over the outcome of ARBs. These and other concerns have resulted in the call for reform or new legislation to strengthen the ARB process.⁵³ The two publicly available ARB reports will further highlight concerns.

⁵⁰ Foreign Affairs Manual, 12 FAM 030: Accountability Review Boards, March 17, 2015, 032.2, accessed January 9, 2017, <https://fam.state.gov/12fam/12fam0030.html>.

⁵¹ Alex Tiersky and Susan B. Epstein, *Securing US Diplomatic Facilities and Personnel Abroad: Background and Policy Issues* (Washington, DC: Congressional Research Service, July 30, 2014), 15.

⁵² Foreign Affairs Manual, 12 FAM 030: Accountability Review Boards, March 17, 2015, 036.2-036.3, accessed January 9, 2017, <https://fam.state.gov/12fam/12fam0030.html>.

⁵³ Domani Spero, "Where are the Accountability Review Boards for Embassy Breaches in Tunisia and Yemen," *DIPLOPUNDIT*, December 3, 2012, accessed August 17 2016, <https://diplopundit.net/tag/arb/page/3/>; Fred Burton and Scott Stewart, "Threats and Accountability," *Stratfor Security Weekly*, August 8, 2013, accessed October 20, 2016, <https://www.stratfor.com/weekly/threats-and-accountability>; House Oversight and Reform Committee, Press Release; New Report Explains Deficiencies in ARB Benghazi Investigation, Lack of Accountability, September 16, 2013.

East Africa 1998

On August 7, 1998, two nearly simultaneous VBIEDs targeted US embassies in East Africa. The explosions in Nairobi, Kenya, and Dar es Salaam, Tanzania, killed 220 people and injured another 4000.⁵⁴ Both embassies were heavily damaged and rendered unusable by the blasts. Twelve US government employees and family members were among the dead, as well as thirty-two Kenyan and eight Tanzanian locally hired employees.⁵⁵ The attacks were not without warning. Two years prior to the bombings, in 1996, US Ambassador to Kenya, Prudence Bushnell, became increasingly concerned with existing security in Nairobi. Ambassador Bushnell sent a number of cables to the State Department concerning security threats and the inadequate security at US Embassy Nairobi.⁵⁶ One year prior, in 1997, Kenyan officials arrested, Wadih el-Hage, a suspected Al Qaeda operative with evidence of extensive surveillance of the US embassy and surrounding areas.⁵⁷ Eight months prior to the attacks, Ambassador Bushnell sent another cable to Washington DC requesting the DOS authorize a new chancery due to the security concerns and the lack of adequate security measures at the existing facility.⁵⁸ The Department reviewed the request and replied in mid-January 1998. The Department disregarded the current threat assessment and denied the request for a new facility citing the threat level for political violence and terrorism. Nairobi was

⁵⁴ GAO, Testimony before the Senate Committee on Foreign Relations, *Overseas Presence: Conditions of Overseas Diplomatic Facilities*, March 20, 2013, GAO-03-557T, 1.

⁵⁵ US Department of State, *Report of the Accountability Review Boards: Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on August 1998*, January 8, 1999, Executive Overview, accessed September 17, 2016, https://fas.org/irp/threat/arb/board_overview.html.

⁵⁶ John Price, "Beirut to Benghazi: We Didn't Learn a Lesson," *International Policy Digest*, (January 23, 2014): 2, accessed October 10, 2016, <http://intpolcydigest.org/2014/01/23/beirut-benghazi-didn-t-learn/lesson/>.

⁵⁷ Fred Burton and Scott Stewart, "Counterterrorism Funding: Old Fears and Cyclical Lulls," *Stratfor Security Weekly*, March 18, 2009, accessed September 28, 2016, https://www.stratfor.com/weekly/20090318_counterterrorism_funding_old_fears_and_cyclical_lulls/.

⁵⁸ US Department of State, *Report of the Accountability Review Boards: Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on August 1998*, Nairobi: Discussions and Findings, January 8, 1999, accessed September 17, 2016, https://fas.org/irp/threat/arb/board_nairobi.html.

rated medium threat at the time of the attack and Dar es Salaam was rated low.⁵⁹ DOS allocated resources based on the perceived threat rating of a post and therefore, these embassies were not scheduled to be brought up to Inman standards for physical security.

In concurrence with title III of the ODSA, on October 5, 1998, Secretary of State Madeline Albright convened two ARBs to review the circumstances leading up to the attacks in east Africa. Due to the proximity in time, geography, and other similarities Secretary Albright decided to have one chairman, retired Navy Admiral William Crowe, Jr., oversee both panels. It was later decided that the two boards would submit a joint report covering both incidents. The joint ARB report, *Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam Tanzania on August 7, 1998*, was submitted to Secretary Albright on January 8, 1999. Admiral Crowe, in his letter to Secretary Albright stated, “In our investigations of the bombings, the Boards were struck by how similar the lessons were to those drawn by the Inman Commission over 14 years ago. What is most troubling is the failure of the US government to take the necessary steps to prevent such tragedies through an unwillingness to give sustained priority and funding to security improvements.”⁶⁰ Furthermore, the Under Secretary for Management, Bonnie Cohen, also cited similarities between the panels in an information memorandum to Secretary Albright in November of 1999. Cohen noted, “this report echoes many of the security concerns about the Department cited in the Inman Panel Report . . .”⁶¹ Admiral Crowe and Under Secretary Cohen’s comments highlight that security improvements had not been implemented despite the Inman Panel recommendations and the subsequent ODSA.

⁵⁹ US Department of State, *Report of the Accountability Review Boards: Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on August 7, 1998*, January 8, 1999, Letter to Secretary Albright from Accountability Review Boards, accessed September 17, 2016, https://fas.org/irp/threat/arb/board_letter.html.

⁶⁰ Ibid.

⁶¹ US Department of State, *Memorandum to the Secretary of State on Security & Intelligence Study of the Department*, from Bonnie R. Cohen. 1999.

The review boards delivered their findings with twenty-four recommendations divided into two categories; (1) improving security systems and procedures and (2) intelligence and information. The first fifteen recommendations dealt with work place security enhancements by adjusting security systems and procedures. Six recommendations addressed improving crisis management systems and procedures. The final three recommendations dealt with the availability of intelligence and information. The investigation did not find any employees negligent, but there were a number of issues addressed in the report. Three major concerns espoused within the report were issues highlighted in the Inman Report a decade earlier; practicality of posts in high threat areas, physical security standards for facilities, and organization of security elements within DOS.

The level of physical security at the missions was controlled by their threat classification level, medium for Nairobi and low for Dar es Salaam.⁶² The matrix utilized to establish threat levels was developed by SY in the late 1970's as a mechanism to allocate resources.⁶³ The medium and low classification set the priority level for future upgrades and new construction. However, the classification system did not account for transnational threats or allow for adjustments based upon tactical level concerns. Recommendation two noted the concerns with physical security, "Given the worldwide threat of transnational terrorism which uses a wide range of lethal weapons, including vehicle bombs, every post should be treated as a potential target and the Department of State's Physical Security Standards and policies should be revised to reflect this new reality."⁶⁴ The attacks that prompted the Inman Panel were internal to their specific countries and viewed as a localized

⁶² Alex Tiersky and Susan B. Epstein, *Securing US Diplomatic Facilities and Personnel Abroad: Background and Policy Issues* (Washington, DC: Congressional Research Service, July 30, 2014), 14.

⁶³ US Department of State, Bureau of Diplomatic Security, *History of the Bureau of Diplomatic Security of the United States* (Washington, DC: Global Publishing Solutions, 2011), 359-360.

⁶⁴ US Department of State, *Report of the Accountability Review Boards: Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on August 7, 1998*, January 8, 1999, Executive Overview, accessed September 17, 2016, https://fas.org/irp/threat/arb/board_overview.html.

threat. The emergence of transnational terrorism indicated that areas of historically lower threats were now susceptible to violent extremism from external actors. Therefore, the Crowe Panel reiterated the importance of consistent physical security standards to meet the intent of the 1986 legislation. This sentiment is reinforced in recommendation three, “For those US diplomatic buildings abroad not meeting Inman standards, essential physical security upgrades should be made immediately and should include a number of specific measures involving perimeters and counter-surveillance.”⁶⁵ Recommendation four went a step further suggesting that the DOS should suspend operations at facilities where it is not possible or cost prohibitive to mitigate threats. However, the recommendations dealing with physical security and construction of new facilities were dependent on appropriate funding. The funding levels following the Beirut attacks in 1983, had not been consistent and security efforts stalled within a few years. These budget cuts were considered a contributing factor to the bombings in Nairobi and Dar es Salaam.⁶⁶

Secretary Albright accepted the report and noted concerns with the continuity of political support for securing diplomatic facilities and personnel. Secretary Albright stated:

The boards did . . . identify a collective failure by the Executive and Legislative Branches of our government over the past decade to provide adequate resources to reduce the vulnerability of US diplomatic missions. The reports suggest that responsibility for this failure must be shared broadly, including by the Secretary of State; and I accept that. It reminds us all that no matter how much we care, no matter how much we do, we can always do more when the lives of our people are on the line.⁶⁷

The cyclical funding highs driven by crises are followed by lulls that require the cutting of budgets and prioritizing of projects. Admiral Crowe noted, “saving lives and adequately addressing our

⁶⁵ US Department of State, *Report of the Accountability Review Boards: Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on August 7, 1998*, January 8, 1999, Executive Overview, accessed September 17, 2016, https://fas.org/irp/threat/arb/board_overview.html.

⁶⁶ Fred Burton and Scott Stewart, “Counterterrorism Funding: Old Fears and Cyclical Lulls,” *Stratfor Security Weekly*, March 18, 2009, accessed September 28, 2016, https://www.stratfor.com/weekly/20090318_counterterrorism_funding_old_fears_and_cyclical_lulls/.

⁶⁷ US Department of State, Secretary of State Madeline K. Albright: Remarks on Report of the Accountability Review Boards on the Embassy Bombings in Nairobi and Dar es Salaam, January 9, 1999.

security vulnerabilities . . . must be given a higher priority by all those involved if we are to prevent such tragedies in the future.”⁶⁸ The ARBs investigation is legislatively limited to security lapses. However, main contributing factors to the vulnerabilities of the embassies in Nairobi and Dar es Salaam were outside of the purview of DSS and with a limited voice within the DOS those concerns were not elevated to the highest levels.

Secretary Albright took special note of recommendation thirteen which again brought into question the security adverse culture within the Foreign Service and the security organization’s placement within DOS. The report noted that the Secretary should, “take a personal and active role in carrying out the responsibility of ensuring the security of US diplomatic personnel. . . [and] convey to the entire Department that security is one of the highest priorities. In the process, the Secretary should reexamine the present organizational structure. . . .”⁶⁹ In response to this recommendation, the Secretary commissioned Booz-Allen & Hamilton to conduct a study on security and intelligence management within the DOS. Recommendations from the Booz-Allen report were reminiscent of findings delivered by the Inman Report in 1985. “Our recommendations concerning organizational structure address the question of where best to place a security function within the Department’s organizational structure.”⁷⁰ The report recommended three structural changes designed to improve the Department of State’s ability to respond to developing threats:

- Elevate the role of the Bureau of Diplomatic Security within Main State.
- Elevate the role of the Regional Security Officer at foreign posts.

⁶⁸ US Department of State, *Report of the Accountability Review Boards: Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on August 1998*, January 8, 1999, Letter to Secretary Albright from Accountability Review Boards, accessed September 17, 2016, https://fas.org/irp/threat/arbboard_letter.html/.

⁶⁹ US Department of State, *Report of the Accountability Review Boards: Bombings of the US Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania on August 1998*, January 8, 1999, Executive Overview, accessed September 17, 2016, https://fas.org/irp/threat/arb/board_overview.html.

⁷⁰ Booz-Allen & Hamilton, *Department of State Security and Intelligence Management Study*, October 18 1999, Executive Summary, i.

- Clarify and define, where necessary, policies, processes, and procedures that govern the coordination of dependent relationships.⁷¹

In 1985, the Inman Panel noted structural weaknesses within SY and in its relationship to other parts of the DOS and the interagency community. SY's position within the DOS created a perception among the interagency community that security was not a priority within DOS culture and that the Department did not take its security responsibilities seriously. The DOS culture was a factor that influenced other agencies not to coordinate with the Department's security officials. The Inman Panel also noted, "the organization has little, if any, control over the resources, personnel, and funds needed to carry out its responsibilities and it has almost no control over the priorities relating to either."⁷² The Booz-Allen & Hamilton Report reiterated the findings of the earlier report and highlighted that issues raised by the Inman Report remained prevalent and the language of the ODSA had not fully alleviated the root causes. Even though the ODSA had elevated the role of security and created the BDS, it was still viewed as an ancillary function reporting to the Under Secretary for Management in the United States and to administrative councilors at posts overseas.

Following the release of the ARB report and the Booz-Allen study a number of changes were initiated. Secretary Albright, through Under Secretary Cohen, changed the reporting structure for security personnel overseas. "[I] am sending a message requiring that RSOs report to, and be evaluated by DCMs or Principle officers, rather than their current reporting relationship to administrative counselors . . ."⁷³ This was viewed as a mechanism to ensure that senior post management was involved in security decisions and to establish clear lines of accountability.

⁷¹ Booz-Allen & Hamilton, *Department of State Security and Intelligence Management Study*, October 18 1999, Executive Summary, i.

⁷² US Department of State, *Report of the Secretary of State's Advisory Panel on Overseas Security*, 1985, Building Program, Organization and Personnel, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part04.htm>.

⁷³ US Department of State, *Memorandum to the Secretary of State on Security & Intelligence Study of the Department*, from Bonnie R. Cohen. 1999.

However, this step was not well received by senior members of the Foreign Service. Under Secretary for Political Affairs Thomas Pickering objected to elevating the role of the Regional Security Officers and delayed clearing Under Secretary Cohens cable and attempted to water down the directives it contained.⁷⁴ Secretary Albright pushed the issues and believed that an additional step was required. She directed Under Secretary Cohen and Assistant Secretary for Diplomatic Security, David Carpenter, to convene a task force to develop steps for the creation for an Under Secretary for Security, Counter Terrorism, and Law Enforcement.⁷⁵ Under Secretary Cohen informed the Secretary that this would be a controversial move within the Department and that the “corporate board,” the career senior diplomats (like Under Secretary Pickering), would resist this as it would give DS too much influence.⁷⁶ On May 5, 2000, the task force provided Secretary Albright with an action memorandum for the creation of an Under Secretary for Security, Law Enforcement and Counter Terrorism. The action memorandum was approved by Secretary Albright on May 26, 2000, but never implemented.⁷⁷

In 1998, the East Africa ARB noted that the primary threat had changed from internal extremist to transnational based terrorist groups seeking to attack soft targets. However, the tactics used during the East Africa attacks were reminiscent of the attacks in the mid-1980s. The large vehicle borne explosive devices were stopped by exterior security systems. Nevertheless, the lack of set back and other standards requested by post prior to the attack and recommended in the 1986 Inman Report resulted in significant loss of life. Additionally, concerns regarding the organization and structure of security within the DOS were again raised as a factor in the ARB report and by

⁷⁴ US Department of State, Bureau of Diplomatic Security, *History of the Bureau of Diplomatic Security of the United States* (Washington, DC: Global Publishing Solutions, 2011), 360-361.

⁷⁵ US Department of State, *Memorandum to the Secretary of State on the Creation of the Under Secretary for Security, Law Enforcement & Counter Terrorism*, from David G. Carpenter, May 5, 2000.

⁷⁶ US Department of State, *Memorandum to the Secretary of State on Security & Intelligence Study of the Department*, from Bonnie R. Cohen. 1999.

⁷⁷ Ibid.

Booz-Allen & Hamilton. The recommended organizational changes that were accepted by Secretary of State Albright were never implemented by the DOS following her departure. The limited organizational change involving the reporting structure at embassies was a step in the right direction but it required political capital to overcome the objections of the “corporate board.” The reoccurrence of recommendations thirteen years after the Inman Report was released could be attributed to a number of factors. However, there reappearance in the Benghazi ARB indicates that issues exist within in the ARB mechanism to foster change and it questions the adequacies of the ARB process.

Benghazi 2012

On September 11, 2012, a large group of militants attacked the US special mission compound in Benghazi, Libya. The attackers consisted of local militia members motivated by transnational terrorists. As the attackers approached the compound, host nation police fled the area, the contract guard force deserted their posts, and friendly militia members hid from the attackers. Within the facility were five DS agents, an information management officer (IMO), and the US Ambassador to Libya, Chris Stevens. Once the agents became aware of the situation they moved the ambassador and the IMO to the safe haven and called for support. Host nation assets were not available to assist and other American elements were awaiting clearance. In the interim, personnel sheltered in place as the compound was overrun. The militants ransacked and then set fire to the main building. The ambassador, IMO, and an accompanying DS agent were forced to crawl through smoke and fumes to an emergency exit. In route to the exit, Ambassador Stevens and the IMO, Sean Smith, became separated from the DS agent. The agent was able to exit the burning building but returned multiple times to try and rescue the personnel remaining inside. Assistance arrived from a nearby US facility and further attempts were made to recover the ambassador and IMO from the burning building. The body of the IMO was discovered and the US responders evacuated the

compound to the nearby US facility. Attacks then shifted to the nearby facility and continued through the night with the additional loss of two Americans. Several others were wounded.⁷⁸

As in the Nairobi incident, there had been indications that the security climate within Benghazi and the rest of Libya prior to the attacks had deteriorated. In Benghazi, international organizations had been attacked. The British ambassador's motorcade had been attacked, and the special mission compound had also been attacked prior to the attacks in September of 2012. The Regional Security Officer (RSO) in Libya compiled a list of 234 security incidents across Libya between June 2011 and July 2012.⁷⁹ Embassy Tripoli noted the lack of host nation capabilities in a cable, 12 Tripoli 944, "host nation security support is lacking and cannot be depended on to provide a safe and secure environment for the diplomatic mission . . ."⁸⁰ In the absence of host nation security support, the RSOs assigned to Tripoli, also having responsibility for Benghazi, made numerous requests to DOS headquarters for additional support. In a congressional hearing one former RSO, Eric Nordstrom, noted, "the most frustrating thing . . . It's dealing [with] and fighting against the people, programs, and personnel who are supposed to be supporting me. For me, the Taliban is on the inside of the building."⁸¹ RSO Nordstrom's repeated attempts to obtain more resources and personnel to mitigate the increasing threat were not given priority and his appeals were viewed as a nuisance by personnel in Washington DC.⁸² The concerns over the deteriorating security situation were elevated to the ambassador's attention. The last message sent by

⁷⁸ US Congress. Congressional Daily Record, *Report on the Terrorist Attack at Benghazi*, 112 Cong., 2nd sess., December 30, 2012. Vol. 158, No. 170, S8530.

⁷⁹ Ibid.

⁸⁰ US Department of State, 12 Tripoli 944, *Request to Add LES Ambassador Protective Detail Bodyguard Positions to US Embassy Tripoli*, August 02, 2012.

⁸¹ Michael R. Gordon, "Official tells Panel a Request for Libya was Denied," *New York Times*, October 10, 2012, accessed February 14, 2017, <http://www.nytimes.com/2012/10/11/world/africa/hearing-focuses-on-attack-that-killed-ambassador.html>.

⁸² Testimony before the House Oversight and Reform Committee, Benghazi testimony of Gregory Hicks, Erick Nordstrom, Mark Thompson, May 8, 2013.

Ambassador Stevens to the DOS was on September 10. The request noted that the situation in Benghazi was continuing to decline and that there were fears for the safety of personnel assigned to the temporary facility.⁸³ Reminiscent of Nairobi, tactical level concerns and requests for assistance were disregarded by DOS personnel in Washington DC.

During the attack of September 11, 2012, the US Ambassador, Chris Stevens, lost his life. His murder was the first murder of a US ambassador since the 1979 murder of Adolph Dubs, US Ambassador to Afghanistan.⁸⁴ Additionally, three other Americans had lost their lives and US facilities had been significantly damaged. Given the circumstances of these attacks, the resulting loss of life, and the destruction of property at a US government overseas facility, Secretary of State Clinton empaneled an ARB in accordance with title III of the ODSA and guidance of 12 FAM 031.1. The ARB was chaired by the former Under Secretary for Political Affairs, Ambassador Thomas Pickering, with former Chairmen of the Joint Chiefs of Staff Admiral Michael Mullen (ret.) serving as Vice Chairman. The Benghazi ARB was constituted during the first week of October 2012 and released a report of findings and recommendations on December 18, 2012. The report determined that a series of terrorist attacks resulted in the deaths of four US government personnel, the wounding of two additional US personnel, and the destruction of US government property. Furthermore, the panel's findings determined that there were failures in leadership and management at senior levels within the DOS, inadequate staffing at the special mission facility, insufficient physical security in place, and issues with the reliability of locally hired and host nation

⁸³ John Solomon, "Memos recovered From Benghazi Compound Detail Staff Security Worries," *Washington Times*, October 19, 2015, accessed November 14, 2016, <http://www.washingtontimes.com/news/2015/oct/19/benghazi-memos-recovered-from-compound-detail-staf/>.

⁸⁴ Josh Voorhees, "Stevens was the Sixth US Ambassador Killed in the Line of Duty. Who Were the Other Five?" *Slate*, September 12, 2012, accessed January 6, 2017, http://www.slate.com/blogs/the_slatest/2012/09/12/u_s_ambassadors_killed_in_line_of_duty_chris_steven_w_as_the_fifth_here_are_the_other_five_.html.

security augmentation.⁸⁵ The findings were reminiscent of the East Africa report and the Benghazi ARB's recommendations would further highlight the similarities.

The Benghazi ARB report listed twenty-nine recommendations. These recommendations were broken down into six core areas: overarching security considerations; staffing high risk, high threat posts; training and awareness; security and fire safety equipment; intelligence and threat analysis; and personnel accountability.⁸⁶ Once again prevalent among the recommendations were the concerns regarding security's placement within the DOS and the selective use of physical security standards. The reoccurrence of recommendations and a number of procedural concerns later led legislators to question the ARB process and its implementation.

Reminiscent of the East Africa ARBs recommendation number thirteen, Benghazi recommendation number two dealt with DSS organization and management, "the Board recommends that the Department re-examine DSS organization and management, with a particular emphasis on span of control for security policy planning for all overseas U.S. diplomatic facilities . . ."⁸⁷As with the East Africa ARB, the Benghazi ARB had sought subject matter experts to review the organization and placement of the BDS. The Benghazi ARB noted, "The Department should establish a panel of outside independent experts (military, security, humanitarian) with experience in high risk, high threat areas to support DS, identify best practices (from other agencies and other countries), and regularly evaluate U.S. security platforms in high risk, high threat posts."⁸⁸ The Independent Panel on Best Practices (IPBP) was chaired by Mark Sullivan, former Director of the US Secret Service. The IPBP listed recommendations in order of importance and the number one recommendation was, "the department should, as a matter of urgency, establish an Under Secretary

⁸⁵ US Department of State, *Accountability Review Board for Benghazi*, December 2012, 4-7.

⁸⁶ Ibid, 7.

⁸⁷ Ibid, 8.

⁸⁸ Ibid.

for Diplomatic Security.”⁸⁹ Legislators noted the Benghazi ARB had repeated the recommendations from the East Africa ARB. Consequently, the committee instituted hearings and called IPBP members and DOS officials to testify. IPBP member Todd Keil explained the importance of the Under Secretary for Security position to a House Select Committee, “because of the culture of the Department of State..., the placement of that position [chief of security], it was crucially important.”⁹⁰ The IPBP had been concerned about the lack of command and control and informed decision making by the Secretary of State and other senior leaders.⁹¹ In 1999, Under Secretary Cohen recommended a similar course of action to then Secretary of State Albright.⁹² However, when Greg Starr, the Assistant Secretary for Diplomatic Security, was questioned about this recommendation he stated, “A decision has been made not to implement that [recommendation],”⁹³ and no explanation had been provided. The concerns regarding the security structure within the DOS that had been originally identified by the Inman Panel and that were revisited by the East Africa ARB became an issue again during congressional hearings surrounding the Benghazi ARB.

Following 2001 attacks on the United States, the DOS began to delve into expeditionary diplomacy. The Department sought to engage in areas previously considered too dangerous for US diplomatic personnel. The initial mission to Benghazi in 2010 was seen as exceptionally risky due to the ongoing civil war and lack of military support.⁹⁴ Following the end of the civil war and the

⁸⁹ US Department of State, *Report of The Independent Panel on Best Practices*, August 29, 2013, 6.

⁹⁰ *Hearing before the Select Committee on Benghazi*. Accountability Review Board Recommendations, 113th Cong., 2nd sess., September 17, 2014. Hearing 1.

⁹¹ *Ibid.*

⁹² “Reorganization offers better command, control and accountability of Departmental security functions and responsibilities; streamlines the flow of security and threat intelligence information with DS as the focal point...” US Department of State, *Memorandum to the Secretary of State on Security & Intelligence Study of the Department*, from Bonnie R. Cohen. 1999.

⁹³ *Hearing before the Select Committee on Benghazi*, Securing US Diplomatic Facilities and Personnel, 113th Cong., 2nd sess., December 10, 2014. Hearing 2.

⁹⁴ Kurt Bardella, “Under Secretary Patrick Kennedy and his ‘Expeditionary Diplomacy’ in Benghazi,” *Huffington Post*, September 18, 2013, accessed November 2, 2016, http://www.huffingtonpost.com/kurt-bardella/under-secretary-patrick-k_b_3948424.html.

transfer of diplomatic operations to Tripoli the focus shifted from the temporary mission in Benghazi to the new embassy. The Benghazi ARB questioned the decision to maintain the mission given the move to Tripoli and the deteriorating security situation. This was encapsulated in recommendation one, which directed the DOS to balance risk and outcomes when maintaining a mission under such arduous circumstances. The ARB stated that in determining when to occupy a diplomatic mission in a high threat area the ambassador should determine whether the means were available to effectively mitigate threats.⁹⁵ The special mission compound in Benghazi did not meet the physical security standards required for a US diplomatic facility. As in Nairobi and Dar es Salaam, the ARB attributed the weak security to bureaucratic terminology. Following the East Africa ARB Congress had passed the Secure Embassy Construction and Counterterrorism Act (SECCA). That legislation defined diplomatic facilities as “any chancery, consulate, or other office notified to the host nation as a diplomatic or consular premises in accordance with the Vienna Conventions on Diplomatic and Consular Relations...”⁹⁶ Using these terms, the DOS and other agencies in the Overseas Security Policy Board (OSPB) established physical security standards for diplomatic facilities both office or residential. However, the Benghazi special mission compound had been designated as a temporary mission facility. Assistant Secretary Star, was asked in a congressional hearing if there were any OSPB standards for temporary mission facilities. His response, “no.”⁹⁷ In the same hearing, IPBP member Todd Keil was asked about the terminology. He responded, “to be honest from our review, Under Secretary Kennedy in authorizing that facility made up that term in order to avoid the OSPB standards.”⁹⁸ In the Benghazi ARB findings, the status of the facility was cited as a factor that contributed to the attack and the resulting loss of life.

⁹⁵ US Department of State, *Accountability Review Board for Benghazi*, December 2012, 8.

⁹⁶ Secure Embassy Construction and Counterterrorism Act of 1999, US Code 22, § 4865.

⁹⁷ *Hearing before the House Select Committee on Benghazi*, Accountability Review Board Recommendations, 113th Cong., 2nd sess., September 17, 2014. Hearing 1.

⁹⁸ *Ibid.*

“[S]pecial mission Benghazi’s uncertain future . . . and its “non-status” as a temporary, residential facility made allocation of resources for security and personnel more difficult and left responsibility to meet security standards to the working-level in the field, with very limited support.”⁹⁹ The standards established by the Inman Report and the subsequent legislation to ensure standards for US facilities had been circumvented by deft use of terminology. The DOS has updated the Foreign Affairs Manual in an attempt to close the terminology loopholes concerning physical security standards; 12 FAM 311.2 (c) “these statutory requirements apply to these facilities, whether acquired or constructed for temporary, interim, or permanent occupancy.”¹⁰⁰ However, the FAM also includes authorization to waive security standards. The Secretary of State may waive standards for chancery and consulate facilities and the Assistant Secretary for Diplomatic Security may grant exceptions and has waiver authority for facilities other than chanceries and consulates.¹⁰¹ Consequently, the DOS Office of Inspector General has noted the Department has a high threshold for exceptions and waivers and that this practice is dangerous.¹⁰²

The ARB expressed concerns regarding the systemic failure of leadership and the stove piping of decisions on policy and security. Communication breakdowns between senior leaders within the DOS caused confusion over who was empowered to make decisions on policy and security considerations.¹⁰³ Policy decisions were made by the African Bureau in coordination with other entities within the US government. Control of the staffing, security, and resources for Benghazi were controlled by the Under Secretary for Management. This bifurcated system

⁹⁹ US Department of State, *Accountability Review Board for Benghazi*, December 2012, 5.

¹⁰⁰ Foreign Affairs Manual, 12 FAM 300: Physical Security Programs, November 11, 2014, 311.2, accessed January 9, 2017, <https://fam.state.gov/fam/12fam/12fam0310.html>.

¹⁰¹ Foreign Affairs Manual, 12 FAM 300: Physical Security Programs, November 11, 2014, 315.1 and 315.2, accessed January 9, 2017, <https://fam.state.gov/fam/12fam/12fam0310.html>.

¹⁰² US Department of State, Office of Inspector General, *Compliance Followup Review of the Accountability Review Board Process*, August 2015, 9.

¹⁰³ US Department of State, *Accountability Review Board for Benghazi*, December 2012, 4-6.

contributed to the lack of command and control in Benghazi. Not a new phenomenon, both the Inman Panel and the East Africa ARB had raised the same issue as a major concern. Eric Nordstrom, expressed to Congress his belief that DSS was out of the loop on the decision making process, he stated, “all of the resource determinations [for DSS] are made by the Under Secretary for Management.”¹⁰⁴ RSO Nordstrom’s comments were reminiscent of the concerns regarding authority and accountability raised in the Booz-Allen & Hamilton report from the East Africa ARB.¹⁰⁵ These were the same issues identified by Under Secretary Cohen to Secretary Albright regarding the corporate culture within the DOS that viewed security concerns as a nuisance that needed to be scrutinized and controlled by the “corporate board.” The former Director General of the Foreign Service, Anthony Quainton, stated, “The buck stops at the regional security officer’s desk. All security officers know that, yet few of their colleagues acknowledge it. This dichotomy is at the heart of the ongoing tension between security professionals and the diplomatic staff of our embassies and consulates.”¹⁰⁶ DSS and the RSO are accountable through the ARB process. However, the authorities to control resources and influence policy are reserved for the Under Secretary, who remains outside the scope of ARB investigations.¹⁰⁷

The reoccurring recommendations and involvement of Secretary of State Hillary Clinton elevated the status of the Benghazi ARB and led to increased scrutiny by the media and legislators. The politicized nature and the level of scrutiny around the Benghazi ARB brought the entire ARB

¹⁰⁴ House Committee for Oversight and Government Reform, Testimony of Eric Nordstrom, May 8, 2013; House Foreign Affairs Committee, Majority Staff Report, Benghazi: Where is the State Department Accountability? 113 Cong., 2nd sess., February 7, 2014, 11.

¹⁰⁵ Booz-Allen & Hamilton, *Department of State Security and Intelligence Management Study*, October 18 1999, Executive Summary, i.

¹⁰⁶ Anthony Quainton, “Diplomatic Security Triage in a Dangerous World,” *Foreign Service Journal* (May 2015), accessed January 15, 2017, <http://www.afsa.org/diplomatic-security-triage-dangerous-world>.

¹⁰⁷ Kurt Bardella, “Under Secretary Patrick Kennedy and his ‘Expeditionary Diplomacy’ in Benghazi,” *Huffington Post*, September 18, 2013, accessed November 2, 2016, http://www.huffingtonpost.com/kurt-bardella/under-secretary-patrick-k_b_3948424.html.

process into question. House oversight and Government Reform Committee Chairman, Darrell Issa (R-CA), stated in a press release, “The ARB was not fully independent...and it has led to an unacceptable lack of accountability.”¹⁰⁸ The Inman Panel initially recommended that the Secretary of State institute a Board of Inquiry process at DOS to establish accountability for terrorist attacks or security related incidents that result in significant damage to facilities or serious casualties to US personnel. This proposal was then strengthened to recommend a legislated foundation.¹⁰⁹ The ARB process was established in the ODSA; however, the operation and staffing of the panels are managed by the DOS. The scrutiny of the Benghazi ARB led the Department’s Office of Inspector General to initiate an investigation of the overall ARB process and the OIG interviewed four former Secretaries of State and noted, “two former secretaries raised questions as to whether the process is sufficiently robust for handling investigations of major, complex incidents...”¹¹⁰ Furthermore, the OIG noted concerns covering the DOS methods of record management, implementation, and staffing pertaining to ARBs.¹¹¹ Other concerns have been raised concerning the independence of the Benghazi ARB. In 12 FAM 031.1 the stated objective of the ARB is “a thorough and independent review of security related incidents.” However, Admiral Mullen stated in congressional testimony that during the investigation he had been in contact with senior DOS officials including Cheryl Mills, Chief of Staff to the Secretary of State.¹¹² In subsequent testimony before the House Select Committee on Benghazi, Mills could not recall the conversation with Admiral Mullen, but later she

¹⁰⁸ House Oversight and Government Reform Committee, Press Release, *New Report Explains Deficiencies in ARB Benghazi Investigation, Lack of Accountability*, 113th Cong., 1st sess., September 16, 2013.

¹⁰⁹ US Department of State, *Report of the Secretary of State’s Advisory Panel on Overseas Security*, 1985, Accountability and Acceptance of Risk, accessed September 15, 2016, <https://fas.org/irp/threat/inman/part05.htm>.

¹¹⁰ US Department of State, Office of Inspector General, *Special Review of the Accountability Review Board Process*, September 2013, 4.

¹¹¹ *Ibid*, 13-18.

¹¹² House Oversight and Government Reform Committee, *Interview of: Admiral Michael Mullen*, 113th Cong., 1st sess., June 19, 2013, 23-27.

admitted that she had received and edited an advance copy of the ARB report.¹¹³ Additionally, 12 FAM 032.2 calls for ARB members to, “possess expertise that will contribute to the work of the Board.” Yet, there was a complete lack of professional investigative and security experience among the members and staff of the ARB and that fact has caused concern about the level of expertise and the thoroughness of the report.¹¹⁴ The investigations following the release of the ARB report raised concerns about the integrity of the report and prompted legislators to draft proposals for bills to address the perceived shortcomings.

The attacks in Benghazi were conducted by local militants inspired by transnational terrorist organizations. This hybrid threat maximized local militias to further a transnational agenda. This new threat coupled with a complete lack of local capacity to fulfill international obligations, led to a catastrophic attack against a US facility. The embassy security staff and the ambassador noted the deteriorating security situation and made multiple requests for assistance. The requests were largely ignored by the DOS. The resulting ARB noted these requests, the failure to meet physical security standards, and the lack of leadership from the DOS. Congress also noticed that the Benghazi ARB report’s recommendations were notably similar to previous recommendations; minimal physical security standards and ineffective organizational leadership within DOS.

Conclusion:

The world is a dangerous place. There are state sponsored and non-state actors that seek to use violence to attack US personnel and facilities. Title II of the ODSA created the DSS in 1986. Congress created the organization to mitigate terrorist activities of the late 1970s and early 1980s. To ensure the organization evolved to meet global threats Congress established ARBs in Title III of

¹¹³ Ben Brody, “Democrats Release Cheryl Mills Benghazi Testimony,” *Bloomberg*, October 21, 2015, accessed January 15, 2017, <https://www.bloomberg.com/politics/articles/2015-10-21/democrats-release-benghazi-committee-testimony-of-hillary-clinton-s-former-chief-of-staff>.

¹¹⁴ Fred Burton and Scott Stewart, “Threats and Accountability,” *Stratfor Security Weekly*, August 8, 2013, accessed October 20, 2016, <https://www.stratfor.com/weekly/threats-and-accountability>.

the ODSA. However, the attacks on US facilities in Beirut, East Africa, and Libya demonstrated comparable failures within the security organization of the DOS. The reoccurrence of analogous recommendations over a twenty-seven-year span indicates that the ARB process is flawed. The evidence has shown that the threats did evolve, yet the security organization within DOS did not. The DSS has grown in size, but its strategic development lacked focus and was hampered by the corporate culture within the Department.

The tactics and techniques of terrorist groups have evolved over the thirty years since the inception of DSS. The attacks in Beirut and Kuwait in 1983 were typical of that time; large VBIEDs driven by domestic terrorists to disrupt US operations in their country. High threat areas were identified and vulnerable facilities were upgraded to mitigate blast damage. By the late 1990s, transnational terrorist organizations were not restrained by national borders and they sought soft targets to further a holy war against the United States.¹¹⁵ The attacks in East Africa were an example of a traditional lower threat embassy being vulnerable to an external threat. The use of VBIEDs was similar to the attacks in 1983. However, the utilization of these devices, in an area not prone to political violence directed against US facilities, caught the US embassies and Washington DC off-guard. The subsequent East Africa ARB recommended that all embassies be viewed as potential targets. By 2012, expeditionary diplomacy had US diplomats deploying into conflict zones with limited support. Diplomatic outposts, such as the US special mission compound in Benghazi, were vulnerable to attack. The substandard security measures at Benghazi created a target of opportunity for local militants acting at the behest of transnational groups. The attackers, using mob tactics, reminiscent of the 1979 attacks in Islamabad and Tehran, routed host nation security and overran the compound before setting fire to the main building. The evolution of threats directed at US facilities indicate that terrorists will exploit perceived vulnerabilities and that US

¹¹⁵ Bruce Hoffman, *Inside Terrorism* (New York: Columbia University Press, 1998), 207.

security must evolve and learn from these attacks in order to enable diplomatic efforts in traditionally safe and potentially unsafe areas.

The Inman Panel recommendations led to the drafting and passage of the ODSA. Title II of this legislation combined various entities within the DOS to create the DSS. The Inman Panel envisioned this organization as a professional organization capable of assessing and mitigating threats to US facilities around the globe. However, the Inman Panel and Congress understood that no organization is infallible and intended the ARB process in Title III as an instrument to assign accountability and utilize failures as a catalyst to foster change within the organization to meet evolving threats. However, the East Africa and Benghazi ARBs had a number of similarities with each other and the original Inman Report. First, the attacks garnered widespread media attention and became politically significant and led to their public release. Second, they identified reoccurring failures within the organization of the DOS and with the implementation of security standards at overseas facilities. All of the reports identified the position of the security organization within the DOS as a concern. The position of DSS within the DOS was seen as an indicator of the level of influence security could exert on policy makers and the perceived lack of importance that security held within the corporate culture of the DOS. The reports also identified failures in implementing physical security standards for US facilities. The reliance on ad hoc systems driven by bureaucratic terminology to allocate funding and to set priorities was evident in all attacks. The Inman Report, East Africa ARB, and Benghazi ARB represent three independent reports separated by twenty-seven years, yet all produced strikingly similar conclusions and recommendations.

The nature of the threats facing diplomatic facilities has evolved over the years. The ARB process was designed to ensure that the DOS security apparatus evolved to mitigate those threats. However, the reoccurrence of recommendations indicates that the system has not produced improvements. The ARB process was, by design, a mechanism intended to bring about change in response to failures within the security system. The boards were intended to independently review

incidents and stand outside the DOS culture. However, the internal control of the system has corrupted the process. The oft repeated recommendations indicate that the DOS has failed to properly implement ARB recommendations. In short, ARBs are a “self-graded” test. Allowing the DOS to self-determine the importance of any corrective action outlined and to determine when it has satisfied a recommendation. The ability to selectively adhere to recommendations allows the DOS to determine if it accepts or declines a recommendation and to self-determine when recommendations have been met. Former Speaker of the US House of Representative, Newt Gingrich, commented on DOS’ willingness to change, “The State Department is way too busy being ineffective to bother fixing its internal structures in order to become more effective.”¹¹⁶ This may be a simplistic view to a complex problem. However, it does support the conclusion that to correct the deficiencies in the ARB process requires congressional action. The Benghazi ARB’s politicization and resulting congressional scrutiny identified concerns with the procedures associated with the staffing, managing, investigating, and record keeping of the ARBs. The House Foreign Affairs Committee felt that the ARBs should have greater independence, non-DOS staffing, guards against conflicts of interest, and additional congressional reporting requirements. These items were encapsulated within draft bill, HR 1768, The Accountability Review Board Reform Act of 2013. However, the bill was referred to the House Foreign Affairs Committee on April 26, 2014, with no further action noted.¹¹⁷ History has shown that substantive change requires legislative action and legislative action requires political will.

¹¹⁶ Newt Gingrich, “Rogue State Department,” *Foreign Policy*, no. 137 (July/August 2003) accessed February 15, 2017, http://www.unc.edu/depts/diplomat/archives_roll/2003_07-09/gingrich_reform/gingrich_reform.html.

¹¹⁷ The Accountability Review Board Reform Act of 2013, H.R. 1768, 113th Cong. 1st sess. Accessed January 15, 2017, <https://www.congress.gov/bill/113th-congress/house-bill/1768/text>.

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